

REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-2, 4-7, 9-12, 14-17, and 19-25 are pending in this application. Claim 25 is added by the present amendment.

New Claim 25 finds support in the application as originally filed, at least in the specification at page 12, lines 11-23, page 13, lines 4-9 and 19-24, and page 16, lines 8-13. Thus, no new matter is added.

In the outstanding Office Action, Claims 1, 2, 4-7, 9-12, 14-17, and 19-24 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent 6,263,317 to Sharp et al. (herein "Sharp") in view of U.S. Patent 5,839,076 to Hafner et al. (herein "Hafner"). Applicants respectfully traverse that rejection.

Claim 1 is directed to a distribution management device that includes, in part, means for receiving via a network first order information of merchandise and second order information of the merchandise. The first order information is formed based on a first purchase request received via a first sales channel that uses the network. The second order information is formed based on a second purchase request received via a second sales channel which is a point-of-sale location that does not use the network. The distribution management device also includes means for instructing a supplier of the merchandise to supply the merchandise based on the stock control information indicating through which of the first sales channel and the second sales channel the purchase request was received. Independent Claims 6, 11, and 16 include similar features directed to different classes of inventions.

Applicants respectfully submit that Sharp and Hafner fail to teach or suggest each of the features of each of the independent claims, and Applicants respectfully traverse the taking of official notice in the Office Action at page 3, last paragraph.

Sharp describes a computer system and method of operating the computer system that allows manufacturers and distributors of products to participate in an e-commerce market place without violating existing distribution agreements.¹ Sharp asserts that there is a problem in such an e-commerce system that allows website owners to obtain the entire credit for a sale, to the detriment of manufacturers and distributors of the product.² To overcome this problem, Sharp describes providing a

web-based system where customers can place orders for brand-name products and then allocate orders to manufacturers, distributors and retailers according to distribution channel protocols defined by the manufacturer. This ensures that sales of brand-name goods and services via the Internet do not violate existing distribution agreements between the manufacturers and their respective distributors and retailers.³

In addition, Sharp indicates that a customer using client computer 120 can access an e-commerce website hosted on a server computer 110 via a computer network 150.⁴ Further, Sharp indicates that once the customer has entered and confirmed the order, a computer program executed on the server computer processes the order and, according to a distribution channel conflict resolution scheme, an order can be allocated either to the owner of the website, or to a distributor selected according to a protocol, or to the distributor for direct distribution.⁵

In other words, Sharp describes a system that allows purchase orders to be received by only one sales channel, that is the purchase orders are received via a website on the Internet. Further, to avoid unfairness to retailers and manufacturers, the method of Sharp includes a conflict resolution scheme to allocate on-line purchases to different entities (e.g., retailers or distributors) according to a protocol. Thus, although a retailer and a distributor may each be allocated proceeds from a purchase made through the sales channel, Sharp only

¹ Sharp at Abstract and column 1, lines 35-46.

² Sharp at col. 1, lines 35-43.

³ Sharp, at col. 1, lines 54-62.

⁴ Sharp at col. 3, lines 6-8.

⁵ Sharp at col. 3, lines 20-29.

describes the single sales channel for receiving purchase orders (i.e., the on-line sales channel). Thus, Sharp neither describes nor otherwise suggests plural sales channels. Accordingly, it is respectfully submitted that Sharp fails to teach or suggest “first purchase request received via a first sales channel that uses the network” and “a second purchase request received via a second sales channel which is a point-of-sale location that does not use the network,” as required by Claim 1, and as similarly required by Claims 6, 11, and 16.

Further, as Sharp fails to describe plural sales channels, Sharp also fails to suggest performing any subsequent action based on an indication of which of the plural sales channels was used to receive a purchase request. Thus, it is respectfully submitted that Sharp also fails to disclose, teach, or suggest “instructing a supplier of said merchandise to supply the merchandise based on the stock control information indicating through which of the first sales channel and the second sales channel the purchase request was received,” as required by Claim 1, and as similarly recited in independent Claims 6, 11, and 16.

Accordingly, it is respectfully submitted that one of skill in the art would have found no motivation in Sharp to extend Sharp to address the claimed inventions, which require first and second sales channels and which require stock control information indicating through which of the first and second sales channels a purchase request was received.

Hafner describes a supplier-driven commerce transaction processing system for processing business transactions between a supplier and a retailer.⁶ In particular, Hafner describes an inventory management scheme that allows a supplier to interact with and manage retailer inventory automatically without significant retailer intervention.⁷ Further, Hafner indicates that a replenishment system 10 may receive inventory information from a retailer host 60 and the inventory information may be point of sale data which may be

⁶ Hafner at Title and Abstract.

⁷ Hafner, at col. 1, lines 26-28.

transferred as 852 or 846 EDI document and inventory adjustments or transferred as a 947 EDI document.⁸

In other words, Hafner describes a method for a supplier to automatically replenish stock at a retailer. Further, in the method of Hafner, there is only a single sales channel, which is a retail sales channel, and Hafner fails to describe plural sales channels used for receiving purchase orders, where one sales channel uses a network and another sales channel does not use the network. Thus, Hafner also fails to describe or otherwise suggest first and second sales channels or information indicating a sales channel through which a purchase order was received, and Hafner also fails to teach or suggest “instructing a supplier of said merchandise to supply the merchandise based on the stock control information indicating through which of the first sales channel and the second sales channel the purchase request was received,” as required by Claim 1, and as similarly recited in independent Claims 6, 11, and 16.

Accordingly, Applicants respectfully submit that independent Claims 1, 6, 11, and 16, and claims depending therefrom, patentably define over Sharp and Hafner.

In addition, Applicants respectfully traverse the taking of official notice in the Office Action, at page 4, last paragraph. The Office Action takes official notice that “indicating through which sales channel a purchase order was received is old and well known in the art.”⁹ As evidence in support of the official notice, the Office Action cites U.S. Publication 2003/0130905 to Foster et al. (herein “Foster”), which was filed on November 15, 2002, after the filing date of the present application (March 8, 2001).

As discussed above, Sharp and Hafner each describe only a single sales channel and the references fail to teach or suggest plural sales channels or basing an action on information

⁸ Hafner, at col. 3, line 64 to col. 4, line 7, and Fig. 1.

⁹ Office Action at page 3, last paragraph.

regarding plural sales channel. Further, Applicants respectfully assert that indicating through which sales channel a purchase order was received was neither common knowledge nor well known in the art at the time of Applicants' invention. For example, the coordination of the re-supply of merchandise to suppliers of merchandise using plural sales channels was not identified as a problem prior to Applicants' invention.

Applicants respectfully submit that, as noted in MPEP § 2144.03, "[i]t would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestioned demonstration as being well-known." As noted above, Foster was filed on November 15, 2002, which is after the filing date of the present application, March 8, 2001. Thus, Foster is not prior art and cannot be used as evidence of what was well-known at the time of invention. Accordingly, it is respectfully requested that the official notice be withdrawn.

In addition, Applicants respectfully point out that Foster also fails to suggest the features it is asserted to disclose in the Office Action. In particular, Applicants respectfully submit that Foster fails to suggest identifying through which of plural sales channels a purchase request was received. Foster describes a method for merchandising that includes creating a product line list that assigns distribution channels through which the products *will be sold*.¹⁰ In addition, Foster indicates that background systems are "limited to single and specific sales and distribution channels" and Foster indicates that such background systems "are not well suited to the tracking, planning and managing of inventory over multiple sales and distribution channels."¹¹ Foster explains that a data engine 10 is "designed for the development of merchandise line lists."¹² Foster also indicates that a channel editor may be used to "hierarchically recognized the distribution channel through which the product *will be*

¹⁰ Foster at paragraph [0009] (emphasis added).

¹¹ Foster at paragraph [0005].

¹² Foster at paragraph [0024].

sold.”¹³ However, Foster fails to teach or suggest “instructing a supplier of merchandise to supply the merchandise based on the stock control information indicating through which of the first sales channel and the second sales channel the purchase request was received,” as required by independent Claim 1 and as similarly required by independent Claims 6, 11, and 16.

Accordingly, Applicants respectfully submit that Foster also fails to support the assertion in the Office Action that “[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the disclosure of Sharp and Hafner to include indicating through which channel a purchase request *was received*.”¹⁴ Therefore, for that independent reason, in addition to the reasons noted above about the lack of prior art cited in support of the official notice, Applicants respectfully request the official notice be withdrawn.

Accordingly, Applicants respectfully request the rejection of Claims 1, 2, 4-7, 9-12, 14-17, and 19-24 under 35 U.S.C. § 103(a) as unpatentable over Sharp in view of Hafner be withdrawn.

In addition, new Claim 25 is added to recite the features of a distribution management system that includes, in part, a first order information forming device configured to form first order information of merchandise based on a first purchase request received from a first purchaser via a first sales channel that uses a network to receive the first purchase request from the first purchaser, and a second order information forming device configured to form second order information of merchandise based on a second purchase request received from a second purchaser via a second sales channel which is a point-of-sale location that does not use the network to receive the second purchase request from the second purchaser.

¹³ Foster at paragraph [0057] (emphasis added).

¹⁴ Office Action at page 4, first paragraph (emphasis added).

As discussed above, Sharp and Hafner fail to teach or suggest plural sales channels and also fail to teach or suggest instructing a supplier of merchandise "to supply the merchandise based on the stock control information indicating through which of the first sales channel and the second sales channel the purchase request was received," as recited in Claim 25.

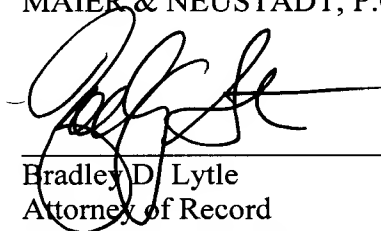
Accordingly, Applicants respectfully submit that Claim 25 also patentably defines over Sharp and Hafner.

Therefore, Applicants respectfully submit that independent Claims 1, 6, 11, 16, and 25, and claims depending therefrom, are allowable.

Consequently, in light of the above discussion and in view of the present amendment this application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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